IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 4044 of 1996

Between:

Smt.Vijaya Kulkarni W/o. Suresh Kumar
Marwadi Hindi Vidyalaya Begum Bazar,
Hyderabad

..... PETITIONER

AND

1 Director of School Education Near Secretariat,
Hyderabad
2 District Education Officer,
Nampally, Hyderabad
3 Marwadi Hindi Vidyalaya rep.by Secretary & Correspondent
Dr.R.M.Saboo, Begum Bazar,
Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly a writ of mandamus by declaring the action of the respondent in not promoting the petitioner as language pandit grade-I as illegal, arbitrary, unconstitutional, declare that the petitioner is entitled to be consider for promotion as Language Pandit Grade I and consequently direct the respondents to consider and promote the petitioner as language Pandit Grade-I with all consequential benefits w.e.f. 29/10/1995 including refixation of scale of pay, arrears, increments etc., and pass such other order.

Counsel for the Petitioner:MR.P.NARAYAN SANGHI

Counsel for the Respondent Nos. 1 and 2: GP FOR SCHOOL EDUCATION

Counsel for respondent No.3: None appeared

The Court made the following :

ORDER:

Heard the learned counsel appearing for the petitioner and also the learned Government Pleader. Though served none appears for the third respondent.

The petitioner herein who is working as SGBT Teacher with the third respondent-Institution files this Writ Petition inter alia, seeking for Mandamus declaring the action of the respondents in not promoting her as language Pandit Grade I as illegal and accordingly consider her case for the same with all consequential benefits from 29.10.1995 including re-fixation of scale of pay, arrears and annual increments etc.

The case of the petitioner in brief is that in pursuance of the advertisement given by the third respondent herein for filling up the regular vacancies she applied for it and after regular process of interview and selection she was appointed as Grade II Teacher and she joined in the service on 1.10.1973 and since then, she has been working without any complaints. It was her case that she obtained a bachelor degree in Arts in Hindi from Osmania University in the year 1985 and subsequently, the petitioner also obtained Master Degree in Arts from the same University in the year 1988. The complaint of the petitioner is that even though several vacancies arose, her case has not been considered. Earlier in fact denying her, the promotions have been given effect to for Grade II in the year 1975 and also in the year 1980. In fact even according to the petitioner she became entitled for the promotion in the year 1992, subsequently, in the year 1996 vacancies arose but her case was not considered. Hence, the present Writ Petition.

Initially, this court has granted interim direction in WPMPNo. 4921 of 1996 on 6.3.1996 for consideration of the petitioner's case for promotion and in pursuance of

the orders, the respondents have promoted the petitioner on 4.10.1996, however, the required formality of obtaining approval from the Regional Joint Director of School Education is still awaited.

In the counter affidavit filed on behalf of the respondents 1 and 2 sworn to by the second respondent herein, it is admitted that the petitioner has in fact fully qualified for such promotion. Accordingly, the Deputy Educational Officer, Seethrambagh Zone vide letter dated 9.6.1997 has submitted the service particulars, whereupon, the Deputy Educational Officer, reported that the post of Gr.I Hindi Pandit was fallen vacant due to demise of the incumbent with effect form 28.10.1995 and the petitioner is eligible for such promotion as Grade I Hindi Pandit. However, it has been pointed out that in the promotion order issued on 4.10.1996, the promotion is subject to the approval by the Deputy Educational Officer, Hyderabad and necessary proposals are submitted to the District Educational Officer, Hyderabad for approval. The Regional Joint Director of School Education, Hyderabad vide proceedings dated 11.12.1997 returned the said proposals with certain objections and thereafter, no proposals have been forwarded by the Management.

Considering the submissions made and also on perusal of the material, it is no doubt true that the petitioner had become eligible for promotion to Hindi Pandit Gr.I as long back as in the year 1996 and consequent to the interim directions given by this court, she has been promoted and proposals sent for approval from the competent authority have remain static only for want of re-presentation of the proposals from the Management side. There is no serious dispute with regard to the qualifications and entitlement of the petitioner. It is only due to the in-action on the part of the third respondent in re-submitting the proposals in pursuance of the remarks made by the Regional Joint Director of School Education, Hyderabad vide proceedings dated 11.12.1997, the approval could not be give.

Having regard to the same, it is not necessary to go into other merits of the case and it would suffice in the interests of justice to direct the third respondent to re-submit the proposals and consequently, respondents 1 and 2 shall consider the case of the petitioner for approval.

Accordingly, the Writ Petition is allowed and the respondents 1 and 2 shall re-submit the proposals within a period of one month from the date of receipt of a copy of this order, whereupon, respondents 1 and 2 and the competent authority shall

consider the case of the petitioner for approval within a period of two months thereafter. No costs.

25.11.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Twenty Fifth Day of November Two Thousand and Four.

To

1 Director of School Education Near Secretariat,
Hyderabad
2 District Education Officer,
Nampally, Hyderabad
3. 2 CCs to G.P for School Education, High Court Buildings, High Court of A.P., Hyderabad. (OUT)

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